

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
March 2, 2004 (2:00 p.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

William A. Paulette, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Application

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney


Participants

1. Tom F. Smith
t/a Nouveau Builders
File Number 2002-00249 (Disc)

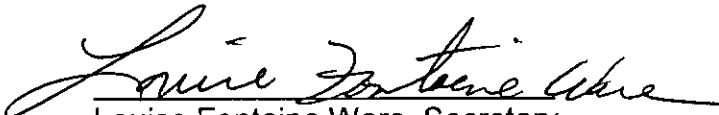
Tom Smith – R
Sherman Smith – R Atty
Jackie German – W

The meeting adjourned at 3:15 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

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Custodian of Records

IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS

In Re:

Tom F Smith, t/a Nouveau Builders
Richmond, VA 23219

File Number 2002-00249
License Number 2701030347

CONSENT ORDER

Respondent Tom F Smith, t/a Nouveau Builders ("Tom F Smith") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2701030347).

As a result of this status, Tom F Smith recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

A violation of these Regulations has been reported and investigated. These matters were considered on March 2, 2004 in an Informal Fact Finding Conference ("IFF") pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended. This IFF was held in Richmond, Virginia and was attended by Tom F. Smith, Respondent; Sherman Smith, Esquire, Attorney for Respondent; and Jackie German, Witness. Board Member William A. Paulette presided at the IFF.

The Board's duly designated representative has found sufficient evidence to believe that:

Background

On or about August 28, 1998, Elizabeth M. Jones (Jones) entered into a contract with Tom F. Smith (Smith), trading as Nouveau Builders, to perform a post fire/smoke damage renovation on property located at 2916 Third Avenue Richmond, Virginia in the amount of \$34,327.00.

Summation of Facts

1. The scope of work to be performed on the subject property included the repair of:
 1. All areas affected by fire and smoke damage will be repaired. Interior to include right front bedroom, left front bedroom, closet, bathroom, left rear bedroom, alcove, closet, hall, right rear bedroom, right rear porch room, stairs, foyer hall, kitchen hall, kitchen alcove dinette, dining room, and living room. Exterior to include: roof, rear roof porch, front right left exterior, rear porch exterior, exterior porch right and exterior rear right.
 2. All interior walls will be cleaned, sealed and painted.
 3. Sand and refinish designated wood floors.
 4. Clean all kitchen appliances and counter top.
 5. Remove and discard damaged roof and fabricate new roof (main roof).
 6. Install 240 lb. Fiberglass shingle roof. Install four new turbine vents (main roof).
 7. Exterior structural repairs to include gutters, purlins, wood sheathing, etc. (rear roof)
 8. Damaged electrical and plumbing to be repaired to/above code.
2. On or about April 18, 2000, David Schanz (Schanz), Inspector with the City of Richmond Bureau of Permits and Inspections, performed an inspection of the work performed at the subject property that revealed:

"Customer called because concerned about building permit not being finalized - fire damage repairs mostly to roof system. I will attempt to notify contractor of defects. Some concerns:

 - Hip rafters severely burned,
 - not adequately sistered to carry imposed loads,
 - burned rafter sisters do not bear on top plate of exterior wall;
 - wall top plate which bears roof load severely burned; and
 - damage to sheathing concealed - how severe?"

3. On or about January 12, 2001, Schanz issued a Notice of Violation citing a violation of §114.1 and §121.0 of the 2000 edition of the Uniform Statewide Building Code for:

"Failing to obtain a final inspection approval for Building Permit B98092506. Failure to request final inspection. Fire damage to rafters, sheathing, top of plate not adequately repaired. Job abandoned without final inspection."

4. Schanz instructed that the code violations were to be corrected on or before Monday, February 12, 2001 at 5:00 p.m. Smith failed to fix or correct these issues by the requested date and time.

5. On or about October 30, 2001, Linda Clark (Clark), Customer Representative, City of Richmond Bureau of Permits and Inspections, told the Board's Agent, Investigator Wayne J. Ozmore, Jr., that on or about May 9, 2001, a final inspection was performed, however, the inspection was disapproved due to the hip rafter not being properly repaired. Clark added that the Notice of Violation against Smith (dated August 23, 2000) is still in effect and that as of October 30, 2001, Smith failed to abate the code violations.

The Board and Tom F Smith, as evidenced by the signatures affixed below, enter into this Consent Order. Tom F Smith knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

Further, by signing this Consent Order, Tom F Smith acknowledges an understanding of the charges. Tom F Smith hereby admits to the violation(s) of the Board's Regulations and consents to the following term(s) by the Board:

Smith agrees to make all reasonable attempts to obtain an approved final inspection from the City of Richmond and provide documentation of either an approved final inspection or his attempts to obtain the final inspection. Such evidence must be provided to the Board, within 60 days of the effective date of this order.

If satisfactory evidence is received within the specified timeframe, then the charge regarding 1999 Board Regulation 18 VAC 50-22-260(B)(21) will be closed with a finding of no violation.

Failure to comply with the above terms will result in a violation of 1999 Board Regulation 18 VAC 50-22-260(B)(21) and a monetary penalty of \$1,000.00 will be imposed.

The above monetary penalties, costs or sanctions are to be paid/performed within thirty days of the effective date of this consent order. Tom F Smith acknowledges the monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Tom F Smith will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Tom F Smith acknowledges that failure to pay the penalty, the costs, or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Tom F Smith's license until such time as there is compliance with all terms of this Order. Tom F Smith understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

Tom F Smith
t/a Nouveau Builders

Date

Printed Name and Title of Person Signing on behalf of Entity

REVIEWED AND APPROVED:

Sherman C. Smith, Esquire

Date

CITY/COUNTY OF _____
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this _____ day of _____, 2004.

Notary Public

My Commission Expires: _____

SO ORDERED:

Entered this _____ day of _____, 2004.

Board for Contractors

BY: _____
Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: William Paulette
2. Title: Board Member
3. Agency: Virginia Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on ~~March~~ ^{March} 2, 2004
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.



Signature



Date